

SENATE BILL NO. 80

INTRODUCED BY PERRY

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING UNLAWFUL POSSESSION OF AN OPEN ALCOHOLIC BEVERAGE CONTAINER BY A PERSON IN A MOTOR VEHICLE; ~~AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.~~"

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Unlawful possession of open alcoholic beverage container in motor vehicle on highway. (1) Except as provided in subsection (2), a person commits the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle if the person knowingly possesses an open alcoholic beverage container within the passenger area of a motor vehicle on a highway.

(2) This section does not apply to an open alcoholic beverage container:

(a) in a locked glove compartment or storage compartment;

(b) in a motor vehicle trunk or luggage compartment or in a truck bed or cargo compartment;

(c) behind the last upright seat of a motor vehicle that is not equipped with a trunk;

(d) in a closed container in the area of a motor vehicle that is not equipped with a trunk and that is not normally occupied by the driver or a passenger; or

(e) in the immediate possession of a passenger:

(i) of a motor vehicle, including a bus, taxi, or limousine, that is used for the transportation of persons for compensation and that includes the provision of a hired driver; or

(ii) in the living quarters of a camper, travel trailer, or motor home.

(3) (A) A person convicted of the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle shall be fined an amount not to exceed \$100.

(B) A VIOLATION OF THIS SECTION IS NOT A CRIMINAL OFFENSE WITHIN THE MEANING OF 3-1-317, 3-1-318, 45-2-101, 46-18-236, 61-8-104, AND 61-8-711 AND MAY NOT BE RECORDED OR CHARGED AGAINST A DRIVER'S RECORD, AND AN INSURANCE COMPANY MAY NOT HOLD A VIOLATION OF THIS SECTION AGAINST THE INSURED OR INCREASE PREMIUMS BECAUSE OF THE VIOLATION. THE SURCHARGES PROVIDED FOR IN 3-1-317, 3-1-318, AND 46-18-236 MAY NOT

1 BE IMPOSED FOR A VIOLATION OF THIS SECTION.

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3 NEW SECTION. Section 2. Definitions. As used in [section 1], the following definitions apply:

4 (1) "Alcoholic beverage" means a compound produced for human consumption as a drink that contains
5 ~~not less than~~ 0.5% OR MORE of alcohol by volume.

6 (2) "Bus" means a motor vehicle with a manufacturer's rated seating capacity of 11 or more passengers,
7 including the driver.

8 (3) "Camper" has the meaning provided in 61-1-129.

9 (4) "Highway" has the meaning provided in 61-1-201, including the shoulders of the highway.

10 (5) "Motor home" has the meaning provided in 61-1-130.

11 (6) "Motor vehicle" has the meaning provided in 61-1-102.

12 (7) "Open alcoholic beverage container" means a bottle, can, jar, or other receptacle that contains any
13 amount of an alcoholic beverage and that is open or has a broken seal or the contents of which are partially
14 removed ~~or are immediately capable of being consumed.~~

15 (8) "Passenger area" means the area designed to seat the driver and passengers while a motor vehicle
16 is in operation and any area that is readily accessible to the driver or a passenger while the driver or a passenger
17 is seated in the vehicle, including an unlocked glove compartment.

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19 NEW SECTION. Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified
20 as an integral part of Title 61, chapter 8, and the provisions of Title 61 apply to [sections 1 and 2].

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22 ~~NEW SECTION. Section 4. Effective date.~~ [This act] is effective on passage and approval.

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